IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1526 OF 2005

Smt.Suman Valmik Bansode .. Appellant

Versus

Smt.Gangubai Nathaji Bansode

and Ors. .. Defendants

Mr.A.S.Rao for appellant

CORAM : S.C.DHARMADHIKARI, J.

DATE : 1st August 2007.

P.C.

. The only submission of Mr.Rao is that the certificate evidencing marriage between the second respondent and the deceased Valmik is

issued by the Block Development Officer,(BDO), who is not the authority in law either to issue such certificate or to maintain records of the subject Village Panchayat. A reference by the lower appellate court, therefore, to section 45 of the Bombay Village Panchayat Act and Schedule I was entirely misplaced. Secondly, the certificate had no validity and legality in law. Once this certificate is illegal and invalid, the factum of prior marriage of deceased and respondent No.2 is not proved and, therefore, claim of the appellant as wife of deceased Valmik was worthy of acceptance and deserves to be granted.

2. This is hardly a substantial question of law, inasmuch as, concurrently, the courts below have found that the deceased was married prior to that of appellant with respondent No.2. That marriage took place at the native place of deceased Valmik viz., Village Patoda, Taluka

Yeola Dist.Nashik. There is evidence of defendant No.2 (Exh.60) on record that the marriage was performed in the year 1970. The marriage was registered with Panchayat and an extract from the said Register maintained by Panchayat is produced along with certificate of B.D.O. The registration certificate refers to the name of the deceased and that of respondent No.2, date of marriage and venue so also its registration. The details of the relations are also given. This corroborates the version of defendant No.2. I find no error committed by the courts below in placing reliance upon the certificate so also extract from the Register. It is clear that the certificate was not issued as claimed by Mr.Rao by the BDO. To maintain records is an aspect which would not in any manner reflect upon the certificate or its genuineness. The certificate is based upon entries in the Register and such Register having been maintained by the Panchayat is an undisputed

fact. Consequently, it was not necessary for the courts below to entertain any grievance with regard to jurisdiction of BDO.

3. This is the only point which is raised before me. The concurrent findings of fact recorded by the courts below do not suffer from any error nor can be termed as perverse. This is not a Court which can re-appraise or re-appreciate this material. In the light of the above, no substantial question of law is raised. The second appeal is summarily dismissed.

(S.C.DHARMADHIKARI, J)